

of Patent Appeals and Interferences, and any party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences, may appeal to the U.S. Court of Appeals for the Federal Circuit. The appellant must take the following steps in such an appeal: In the U. S. Patent and Trademark Office, file a written notice of appeal directed to the Director (see §§1.302 and 1.304); and in the Court, file a copy of the notice of appeal and pay the fee for appeal as provided by the rules of the Court. For *inter partes* reexamination proceedings filed under §1.913, §1.983 is controlling.

[65 FR 76774, Dec. 7, 2000]

§ 1.302 Notice of appeal.

(a) When an appeal is taken to the U.S. Court of Appeals for the Federal Circuit, the appellant shall give notice thereof to the Director within the time specified in §1.304.

(b) In interferences, the notice must be served as provided in §1.646.

(c) Notices of appeal directed to the Director shall be mailed to or served by hand on the General Counsel as provided in §104.2.

[50 FR 9383, Mar. 7, 1985, as amended at 53 FR 16414, May 9, 1988; 68 FR 14336, Mar. 25, 2003]

§ 1.303 Civil action under 35 U.S.C. 145, 146, 306.

(a) Any applicant or any owner of a patent involved in an *ex parte* reexamination proceeding filed under §1.510 for a patent that issues from an original application filed in the United States before November 29, 1999, dissatisfied with the decision of the Board of Patent Appeals and Interferences, and any party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences may, instead of appealing to the U.S. Court of Appeals for the Federal Circuit (§1.301), have remedy by civil action under 35 U.S.C. 145 or 146, as appropriate. Such civil action must be commenced within the time specified in §1.304.

(b) If an applicant in an *ex parte* case or an owner of a patent involved in an *ex parte* reexamination proceeding filed under §1.510 for a patent that issues from an original application filed in

the United States before November 29, 1999, has taken an appeal to the U.S. Court of Appeals for the Federal Circuit, he or she thereby waives his or her right to proceed under 35 U.S.C. 145.

(c) If any adverse party to an appeal taken to the U.S. Court of Appeals for the Federal Circuit by a defeated party in an interference proceeding files notice with the Director within twenty days after the filing of the defeated party's notice of appeal to the court (§1.302), that he or she elects to have all further proceedings conducted as provided in 35 U.S.C. 146, the notice of election must be served as provided in §1.646.

(d) For an *ex parte* reexamination proceeding filed under §1.510 for a patent that issues from an original application filed in the United States on or after November 29, 1999, and for an *inter partes* reexamination proceeding filed under §1.913, no remedy by civil action under 35 U.S.C. 145 is available.

(35 U.S.C. 6; 15 U.S.C. 1123)

[47 FR 47381, Oct. 26, 1982, as amended at 49 FR 48454, Dec. 12, 1984; 54 FR 29553, July 13, 1989; 65 FR 76774, Dec. 7, 2000]

§ 1.304 Time for appeal or civil action.

(a)(1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§1.302) or for commencing a civil action (§1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under §1.197(b), §1.658(b), or §1.979(a), the time for filing an appeal or commencing a civil action shall expire two months after action on the request. In interferences the time for filing a cross-appeal or cross-action expires:

(i) Fourteen days after service of the notice of appeal or the summons and complaint; or

(ii) Two months after the date of decision of the Board of Patent Appeals and Interferences, whichever is later.

(2) The time periods set forth in this section are not subject to the provisions of §1.136, §1.550(c), §1.956, or §1.645(a) or (b).

(3) The Director may extend the time for filing an appeal or commencing a civil action: